

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

SUPPORT FOR CLAIM AMENDMENTS

Support for the amendments to the claims can be found in the drawings as originally filed, for example in FIGS. 2A and 2B, and in the specification as originally filed, for example on page 2, line 7 through page 3, line 2, on page 12, line 14 through page 13, line 18. As such, no new matter has been introduced.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The rejection of claims 1-20 under 35 U.S.C. §112, second paragraph, as being indefinite is respectfully traversed and should be withdrawn.

Specifically, as noted by the Board on page 3 of the Decision on Appeal, the determination of whether the claims of an application satisfy the requirements of the second paragraph of §112 is:

To determine whether the claims do, in fact, set out and circumscribe a particular area with a reasonable degree of precision and particularity. It is here where the definiteness of language employed must be analyzed - not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by **one possessing the ordinary level of skill in the pertinent art**

[footnote omitted.] (see bottom of page 3 of the Decision on Appeal, citing *In re Moore*, footnote omitted by Board, emphasis added by Appellants' representative).

However, the statement in the new ground of rejection that:

Upon review of appellants' disclosure (which includes Figures 1 and 2), we cannot find a clear depiction of the plasma chamber aperture in order to assess the meaning of the word "aperture". The examiner refers to page 7 of appellants' specification, wherein the plasma chamber aperture is mentioned. [citation omitted] A detailed description of the chamber aperture is not set forth therein. Notably, Figures 1 and 2 do not provide additional clarity in this regard. As such, the claims, as presently written, do not circumscribe the boundaries of the claims with a reasonable degree of particularity (page 4, lines 1-11 of the Decision on Appeal, mailed December 20, 2005).

does not indicate either the specific portions of Appellants' specification that were actually reviewed or that the Federal Circuit case law, which states that patent documents need not include subject matter that is known in the field of the invention and is in the prior art, because patents are written for **persons experienced in the field of the invention**, was taken into account. As such, it does not appear that a complete analysis with the proper standard was applied in arriving at the new ground of rejection presented in the Decision on Appeal. Since the new ground of rejection is not a final decision (see page 6, lines 7-10 of the Decision on Appeal mailed December 20, 2005), Appellants' will perform the analysis required by the Federal Circuit.

In particular, contrary to the position taken in the new ground of rejection, one possessing the ordinary level of skill in the pertinent art would be able to reasonable ascertain the metes and bounds of the presently claimed invention based upon the present specification and knowledge available in the art. In particular, the present specification states:

Conventional plasma processing apparatuses contain a plurality of apertures (alternatively, channels, vias, ports, inlets and/or outlets) for transmitting optical and/or electrical information and/or for transferring gases and/or other materials into or out of the chamber (page 1, line 19 through page 2, line 1 of the specification).

Since conventional plasma processing apparatuses contain a plurality of apertures, it follows that one possessing the ordinary level of skill in the art of plasma processing chambers would understand the meaning of the term "aperture" in connection with plasma processing chambers. The Federal Circuit has stated:

The law is clear that **patent documents need not include subject matter that is known in the field of the invention and is in the prior art**, for patents are written for **persons experienced in the field of the invention**. See *Vivid Technologies, Inc. v. American Science and Engineering, Inc.*, 200 F.3d 795, 804, 53 USPQ2d 1289, 1295 (Fed. Cir. 1999) ("patents are written by and for skilled artisans"). To hold otherwise would require every patent document to include a technical treatise for the unskilled reader. Although an accommodation to the "common experience" of lay persons may be feasible, it is an unnecessary burden for inventors and has long been rejected as a requirement of patent disclosures. See *Atmel Corp.*, 198 F.3d at

1382, 53 USPQ2d at 1230 (Fed. Cir. 1999) ("The specification would be of enormous and unnecessary length if one had to literally reinvent and describe the wheel."); *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1556, 220 USPQ 303, 315 (Fed. Cir. 1983) ("Patents are written to enable those skilled in the art to practice the invention, not the public.") (see *S3 Inc. v. nVIDIA Corp.*, 259 F.3d 1364, 59 USPQ2d 1745, 1749-50 (Fed. Cir. 2001)).

Assuming, *arguendo*, a detailed description of the chamber aperture is not set forth in the specification (as stated in the new ground of rejection and for which Appellants' representative does not necessarily agree), it does not necessarily follow that the claims "do not circumscribe the boundaries of the claims with a reasonable degree of particularity" as stated in the new ground of rejection (see page 4, lines 1-11 of the Decision on Appeal, mailed December 20, 2005).

As indicated above, the Federal Circuit has stated that the law is clear that patent documents need not include subject matter that is known in the field of the invention and is in the prior art, for patents are written for persons experienced in the field of the invention. The specification states that conventional plasma processing apparatuses contain a plurality of apertures. Therefore, the term "aperture" is known in the field of the invention. Furthermore, no contrary evidence was presented in the new ground of rejection that one possessing the ordinary level of skill in the art of plasma processing chambers would not understand

the meaning of the term "aperture" as used in connection with plasma processing chambers. Therefore, the new ground of rejection does not appear to have taken into account what one possessing the ordinary level of skill in the art of plasma processing chambers would understand the meaning of the term "aperture" to be in light of the present specification. Therefore, the conclusion arrived at in the new ground of rejection does not appear to be correct. As such, the rejection of claims 1-20 as being indefinite does not appear to be sustainable and should be withdrawn.

Furthermore, the specification provides a number of alternative terms for apertures (i.e., words considered to be synonyms for the term apertures) that would aid one possessing the ordinary level of skill in the art of plasma processing chambers in discerning the meaning of the term "aperture", if not already known. In particular, the present specification provides as alternatives for the term "aperture" the terms channel, via, port, inlet and outlet (see page 1, lines 20-21 of the specification). One possessing the ordinary level of skill in the pertinent art would recognize the terms apertures, channels, vias, ports, inlets and outlets as referring to "holes" through a structure (e.g., an aperture **through a wall of a plasma processing chamber**, as recited in claim 1). Indeed, read in light of the present specification, one possessing the ordinary level of skill in the pertinent art would recognize the term "aperture" as having the commonly

understood meaning of "an opening, such as a hole, gap or slit (see definitions of "aperture" from the American Heritage Dictionary of the English Language, Fourth Edition, Copyright 2000, and from the Merriam-Webster Online Dictionary, attached as Exhibit A; see also definition of "via" from Laplante, Comprehensive Dictionary of Electrical Engineering, CRC press, 1999, pg 677, attached as Exhibit B).

Furthermore, FIGS. 2A and 2B of the present specification would be recognized by one possessing the ordinary level of skill in the pertinent art as illustrating an aperture (e.g., element 20) as a hole through a chamber wall. In particular, one possessing the ordinary level of skill in the art of plasma processing chambers would recognize FIGS. 2A and 2B as illustrating a cross-section (i.e., edge view) through a portion of a chamber wall and a plan view (e.g., front/back view) of the portion of the chamber wall, respectively. For example, FIG. 2B even includes a label "(chamber wall)" to identify the structure in which the aperture 20 is illustrated. The present specification further provides an actual example from which one possessing the ordinary level of skill in the field of plasma processing chambers could discern the meaning of the term aperture:

In actual practice, the present channel sleeve, fabricated from a conventional ceramic material and having the dimensions of the actual examples listed in the table above (e.g., tolerances = \pm 0.001 inch), was inserted into **the endpoint detection channels**

of the upper chambers of nine (9) conventional, commercially available plasma etching apparatuses (including Lam 9500 plasma etch systems, obtained from Lam Research Corporation, Fremont, California). . . . (see page 18, lines 10-16 of the specification, emphasis added by Appellants' representative).

A person possessing the ordinary level of skill in the pertinent art would, based upon (i) the depiction in FIGS. 2A and 2B of the aperture 20, (ii) the identification of terms such as channel, via, port, inlet and/or outlet as being alternatives for the term aperture and (iii) the actual use example of inserting a device in accordance with the presently claimed invention into an endpoint detection channel of an upper chamber of a conventional, commercially available plasma etching apparatus, understand the term "aperture" as meaning "an opening, such as a hole, gap or slit." Since, a person possessing the ordinary level of skill in the pertinent art would clearly be able to assess the meaning of the word "aperture" as used in the presently pending claims, it follows that the term "aperture" is not indefinite (see MPEP § 2173.02). Furthermore, since a person possessing the ordinary level of skill in the pertinent art would clearly be able to assess the meaning of the word "aperture" as used in the presently pending claims, the person possessing the ordinary level of skill in the pertinent art would clearly be able to reasonably ascertain the metes and bounds of the presently claimed invention. Because the person possessing the ordinary level of skill in the pertinent art

would be able to reasonably ascertain the metes and bounds of the presently claimed invention, the present claims are definite within the meaning of 35 U.S.C. §112, second paragraph. As such, the non-final new ground of rejection does not appear to be sustainable and should be withdrawn.

All other rejections have been reversed by the Board.

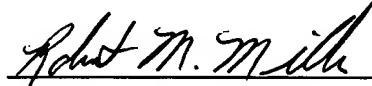
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicants' representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office Account No. 50-0541.

Respectfully submitted,

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ap·er·ture (əp'ər-chər)

n.

1. An opening, such as a hole, gap, or slit.

2.

- a. A usually adjustable opening in an optical instrument, such as a camera or telescope, that limits the amount of light passing through a lens or onto a mirror.
- b. The diameter of such an opening, often expressed as an f-number.
- c. The diameter of the objective of a telescope.

[Middle English, from Latin *apertura*, from *apertus*, past participle of *aperire*, *to open*; see *wer-*⁴ in Indo-European roots.]

ap'er-tur'al adj.

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Thesaurus

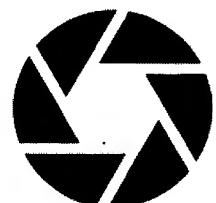
Legend: [Synonyms](#) [Related Words](#) [Antonyms](#)

Noun 1. aperture - a device that controls amount of light admitted

[camera](#), [photographic camera](#) - equipment for taking photographs (usually consisting of a lightproof box with a lens at one end and light-sensitive film at the other)

[regulator](#) - any of various controls or devices for regulating or controlling fluid flow, pressure, temperature, etc.

[telescope](#), [scope](#) - a magnifier of images of distant objects



2. aperture - a natural opening in something

[eye](#), [oculus](#), [optic](#) - the organ of sight

[pupil](#) - contractile aperture in the iris of the eye

[hole](#) - an opening into or through something

[micropyle](#) - minute opening in the wall of an ovule through which the pollen tube enters

[stoma](#), [stomate](#), [pore](#) - a minute epidermal pore in a leaf or stem through which gases and water vapor can pass

3. aperture - an man-made opening; usually small

embouchure, mouthpiece - the aperture of a wind instrument into which the player blows directly

mouthpiece - a part that goes over or into the mouth of a person; "the mouthpiece of a respirator"

opening - a vacant or unobstructed space that is man-made; "they left a small opening for the cat at the bottom of the door"

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In the trap-door itself was found a square **aperture** cut in the wood, apparently with some exceedingly sharp instrument, just behind the bolt which fastened the door on the inner side.

The Moonstone by Collins, Wilkie [View in context](#)

The little pink sloth-creature was still blinking at me when my Ape-man reappeared at the **aperture** of the nearest of these dens, and beckoned me in.

The Island of Doctor Moreau by Wells, H.G. [View in context](#)

he had said for the third time, to his comedians, speaking machines; then as he was marching with great strides in front of the marble table, a fancy seized him to go and appear in his turn at the **aperture** of the chapel, were it only for the pleasure of making a grimace at that ungrateful populace.

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- Aperture Grille Pitch (Sony CRTs)
- Aperture Integral Equation
- Aperture Masking Interferometry
- Aperture priority
- Aperture Priority (camera)
- Aperture Scanning
- Near-Field Optical Microscopy
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- Taste
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- Breathe

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Word of the Day**inconsequential**

Definition: (adjective) of little importance.

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[XML](#) [MY YAHOO!](#)**Search Dictionary:** [Email this page to a friend](#) HOUGHTON MIFFLIN[< apéritif](#)[aperture card >](#)**ap-er-ture**  (ăp'ĕr-chĕr) **KEY****NOUN:**

1. An opening, such as a hole, gap, or slit.
2.
 - a. A usually adjustable opening in an optical instrument, such as a camera or telescope, that limits the amount of light passing through a lens or onto a mirror.
 - b. The diameter of such an opening, often expressed as an f-number.
 - c. The diameter of the objective of a telescope.

ETYMOLOGY:

Middle English, from Latin *apertūra*, from *apertus*, past participle of *aperīre*, *to open*; see *wer-*⁴ in Indo-European roots

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aperture

One entry found for **aperture**.

Main Entry: **ap·er·ture** 

Pronunciation: 'ap-&(r)-"chur, -ch&r, -"tyur, -"tur

Function: *noun*

Etymology: Middle English, from Latin *apertura*, from *apertus*, past participle of *aperire* to open

1 : an opening or open space : **HOLE**

2 a : the opening in a photographic lens that admits the light
b : the diameter of the stop in an optical system that determines the diameter of the bundle of rays traversing the instrument c : the diameter of the objective lens or mirror of a telescope

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relative to a local reference, usually the ground or horizon. A vertically polarized EM wave is one with its electric field vector aligned perpendicular to the local horizontal.

vertical roll in television, the apparent continuous upward or downward movement of the picture, resulting from the lack of synchronization between the transmitter and receiver.

vertical sync pulse a signal interval of the NTSC composite video signal provided for the synchronization of the vertical deflection system; the vertical sync interval has a duration of three horizontal lines and is serrated with six pulses. The vertical sync interval starts after six equalizing pulses (3 horizontal line periods) that identify the beginning of the vertical blanking interval. The vertical serration preserves the horizontal line synchronization information during the vertical sync pulse interval with the one-half horizontal line time-signal transition from the composite video blanking signal level to the sync signal level. The serrated vertical pulse duration is at the blanking level for $7 \pm 1\%$ of the horizontal line time.

vertically integrated utility a utility in which generation, transmission, and distribution divisions are all owned by a single entity.

very high-speed digital subscriber line (VDSL) a digital subscriber line (DSL) that provides very high rates (13 Mbps, 26 Mbps, and 52 Mbps) through short subscriber loops (1 to 3 kft). A VDSL may support asymmetric rates between the customer premise and the central office.

very-large-scale-integration (VLSI) (1) a technology that allows the construction and interconnection of large numbers (millions) of transistors on a single integrated circuit.

(2) an integrated circuit made of tens of thousands to hundreds of thousands of transistors.

very long instruction word (VLIW) a computer architecture that performs no dynamic analysis on the instruction stream and executes operations precisely as ordered in the instruction stream.

very small aperture terminal (VSAT) a small earth station suitable for installation at a customer's premises. A VSAT typically consists of an antenna less than 2.4 m, an outdoor unit to receive and transmit signals, and an indoor unit containing the satellite and terrestrial interface units.

vestigial sideband (1) a portion of one sideband in an amplitude modulated signal, remaining after passage through a selective filter.

(2) Amplitude modulated signal in which one sideband has been partially or largely suppressed.

(3) The small amount of energy emitted in the unused sideband in a single-sided transmitter.

VGA *See* video graphics adapter.

VHF very high frequency. *See* VHF power.

VHF power in television, the band of frequencies ranging from 30MHz to 300MHz.

VHSIC acronym for very high speed integrated circuit.

via a hole in the insulator between two metal layers on a multilayer integrated circuit that is etched and filled with a conducting material so that the two metal layers are electrically connected. Via resistance is typically less than 10 ohms.

via hole hole chemically etched from the back of a MMIC wafer and filled with metal in such a way as to allow an electrical connection between the backside of a wafer and the topside of the wafer.